

Colorado River Basin Regional Water Quality Control Board

August 5, 2015

Mr. Michael Kiner
The Kiner Group, Inc.
70-177 Highway 111, Suite 200
Rancho Mirage, CA 92270

RE: ORDER FOR TECHNICALLY-CONDITIONED CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS

PROJECT: This federal Clean Water Act Section 401 Water Quality Certification (WQC) (33 U.S.C. § 1341) is written for The Kiner Group, Inc. - Indian Wells Crossing Project, WDID No. 7A333148001

APPLICANT: Kiner Group, Inc.

- ACTION:**
1. ☐ Order for Standard Certification
 2. ☒ Order for Technically-Conditioned Certification
 3. ☐ Order for Denial of Certification

STANDARD CONDITIONS:

The following standard conditions apply to all certification actions, except as noted above under Action 3 for denials.

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR

section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.
4. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law. For purposes of Clean Water Act (CWA) section 401(d), the applicability of any State law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Water Quality Certification (WQC).
 - a. In response to a suspected violation of any condition of this WQC, the Colorado River Basin Regional Water Quality Control Board (Colorado River Basin Water Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Colorado River Basin Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - b. In response to any violation of the conditions of this WQC, the Colorado River Basin Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

ADDITIONAL CONDITIONS:

The following additional conditions apply to this certification:

1. This WQC applies towards the proposed project (Project) as described in a 401 application received by the Colorado River Basin Water Board on February 11, 2015. Updated information was received on July 28, 2015.
2. The Applicant shall provide the Colorado River Basin Water Board and other interested agencies with written notification of any significant modifications made to the Project prior to implementation of the modifications.
3. This WQC does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

4. This WQC does not authorize the Applicant or any associated party to trespass on any land or property unless the applicant has obtained written authorization or acquired a special use authorization permit from the land or property owner.
5. A copy of this WQC shall be provided to the appropriate onsite Supervisor for the Project. All personnel performing work on the proposed Project shall be familiar with the content of this WQC. Copies of the WQC shall be readily available at the Project site at all times during periods of active work and shall be presented to regulatory agency representatives upon request.
6. The Applicant shall grant Colorado River Basin Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this WQC and/or to determine the impacts the Project may have on waters of the United States.
7. The proposed Project shall not be enlarged or extend beyond the proposed Project impact area. The Applicant shall delineate the Project boundaries and staging areas with stakes, flags and/or temporary construction fencing.
8. The area of vegetation and soil disturbance shall be restricted to the smallest extent possible.
9. The Project shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.
10. The Project shall not discharge waste classified as "hazardous" as defined in Title 23 California Code of Regulations (CCR) section 2521, California Health and Safety Code section 25140, and Title 22, CCR, section 66260.10 et seq.
11. No oil, petroleum products, or rubbish shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States.
12. No equipment maintenance will be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter waters of the United States.
13. Equipment refueling shall not occur within waters of the United States.
14. Any oil or grease leaks shall be immediately cleaned up.
15. The Applicant shall ensure that all contaminated material and/or contaminated soil removed or excavated from the Project site is properly loaded, transported, and disposed of in accordance with Federal, State, and local regulations.

16. Staging/storage areas for equipment and materials shall be located outside of waters of the United States.
17. The Applicant shall ensure that all disturbed and filled areas are adequately stabilized and protected from erosion and siltation by implementing appropriate soil stabilization, sedimentation and silt control measures.
18. Any flow diversion used during construction shall be designed in a manner to prevent pollution, minimize siltation, and shall provide flows to downstream reaches. Flows shall be maintained to support existing aquatic life and riparian wetlands and habitat that may be located upstream and downstream from any temporary diversion.
19. The Applicant shall restore drainages, to the greatest extent possible, to the original bank configuration, stream bottom width, and channel gradient.
20. All temporary facilities and impacts shall be removed and restored to the preexisting conditions and contours to the extent practicable.
21. Construction related materials and wastes shall be removed from the Project site upon completion of the Project.
22. The Applicant shall submit Notice to the Colorado River Basin Water Board within 60-days of completion of the Project. The Notice shall include: 1) a detailed summary of the mitigation and restoration activities implemented during the Project and 2) provide photographic documentation that supports the information summarized in the Notice.
23. The Colorado River Basin Water Board reserves the right to suspend, cancel, or modify and reissue this WQC, after providing notice to the Applicant and/or responsible Site-Supervisor, if the Colorado River Basin Water Board determines that the Project fails to comply with any of the terms or conditions of this WQC.
24. The Applicant shall orally notify the Colorado River Basin Water Board of any noncompliance that may impact the beneficial uses of waters of the United States, as soon as notification is possible and notification can be provided without substantially impeding measures necessary to address the noncompliance.


REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

If you have any questions, please contact Jay Mirpour, Water Resources Control Engineer, at (760) 776-8981 or jmirpour@waterboards.ca.gov.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the referenced Project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' Project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Colorado River Basin Water Board's Water Quality Control Plan (Basin Plan).



ROBERT PERDUE, Executive Officer
Colorado River Basin Regional Water Quality Control Board

JJM/

cc: James Mace, U.S. Army Corps of Engineers, Los Angeles District
Bill Orme, SWRCB, Division of Water Quality, Water Quality Certification Unit
Elizabeth Goldmann, U.S. Environmental Protection Agency, Region 9
Thomas A. Vandenberg, Office of Chief Counsel, SWRCB

File: The Kiner Group, Inc. - Indian Wells Crossing Project, WDID No.
7A333148001

PROJECT INFORMATION

Application Date: This WQC applies towards the proposed project (Project) as described in a 401 application received by the Colorado River Basin Water Board on February 11, 2015. Updated information was received on July 28, 2015.

Applicant: The Kiner Group, Inc., Contact: Mr. Michael Kiner (619) 688-3367

Applicant Representative: Dudek, Contact: Mr. Ryan Henry, (949) 450-2525

Project Name: The Kiner Group, Inc. - Indian Wells Crossing Project, WDID No. 7A333148001

Start and Completion: Startup: 09/01/2015
Completion: 10/01/2016

Project Description: To provide residential housing and commercial buildings. This is a non-water dependent activity. The overall project purpose is the profitable development of a small-sized, mixed used community along with the associated infrastructure and improvements to serve the western Riverside county area.

Project Location: City or area: Indian Wells, Riverside County, California
Longitude/Latitude: 33.7225, -116.3169
Township/Range: T:5S, R:6E, S:23, 24
San Bernardino Base Meridian

Receiving Water(s): Whitewater River

Acres and Linear Feet Impacted: Construction of the proposed project would result in 0.01 acre of direct permanent impacts to ACOE/RWQCB jurisdiction, and 1.71 acres of CDFW jurisdiction. Temporary impacts include 3.20 acres of ACOE/RWQCB jurisdiction, and 5.75 acres of CDFW jurisdiction.

Standard Best Management Practices (BMPs): - No toxic and/or hazardous materials shall be stored near or within wash/drainage areas. To extent possible, these

materials will be offsite and/or placed in appropriate secondary containment.

- Work and staging areas and temporary access routes will be sized, located and flagged so as to limit potential impacts to natural areas. Previous disturbed areas will be used to the extent feasible.

- No fueling or maintenance of equipment and/or vehicles shall occur adjacent or within the wash/drainage areas.

- Spoil sites shall not be located where spoil could be washed back into the river, or where spoil will cover aquatic or riparian vegetation. Any materials placed in seasonally dry portions of the canal/ drainage areas that could be washed downstream or could be harmful to aquatic life shall be removed from the streambed prior to inundation by high flows.

- After completing the activities, the disturbed area will be restored to pre-existing contours and conditions to the extent feasible.

**Additional Site
Specific BMPs:**

Impacts to the channel and on the side slopes would have little effect on water quality if adequate protective measures are implemented and BMPs are implemented to help control erosion, run-off, and sediment deposition. Measures to avoid or mitigate impacts to water quality will be incorporated into the final project design and will include the following:

- All construction vehicles shall be adequately maintained and equipped to minimize/eliminate fuel spillage within the channel areas.
- All equipment maintenance work shall occur within the designated staging areas or off site.
- Construction staging areas will not be located adjacent to creeks or drainages and will be located in upland areas away from these resources.
- Any construction materials that need to be temporarily stockpiled or equipment/supplies that need to be stored on site shall be kept within the general construction staging areas.
- Installation of appropriately engineered storm drain diversion structures and connections will meet RWQCB requirements.

2015 Indian Wells Crossing
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The final measures will be defined on the final engineering plans.

- BMPs will be implemented, including, but not limited to, silt fencing, straw bales, straw wattles, and sand bags, as necessary to prevent erosion and sedimentation.
- There shall be periodic watering of areas during construction/grading activities to control dust. Prompt stabilization measures of graded drainage channel areas and surrounding slope areas shall occur to prevent erosion and to stabilize the slope surfaces against erosion.
- Several specific site design, source, and treatment control BMPs have been incorporated into the proposed project. These BMPs have been designed to minimize stormwater run-off, control and remove pollutants, minimize the project's impervious footprint, and conserve natural resources.

Federal Permit(s):

U.S. Army Corps of Engineers Section 404 Nationwide Permit No. 13: Bank-Stabilization

Status of CEQA:

Lead Agency: Department of Community Development, City of Indian Wells, State Clearinghouse Number: 2006011058. Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code filed with the County Clerk and State Clearinghouse on May 4, 2006, that the project, with mitigation measures incorporated, would have no significant effect on the environment.

File:

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